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Attorney for Defendant  
FOREST RIVER, INC.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

KATHRYN JOHNSON, an individual,	}	CASE NO.:
Plaintiff,		(Removed from San Bernardino County Superior Court Case No. CIVSB2304014)
v.	}	<b>NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441</b>
FOREST RIVER, INC., an Indiana Corporation; and DOES 1 through 10, inclusive,		Complaint Filed: 02/10/23 Trial Date: Not Yet Set
Defendants.	}	

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant FOREST RIVER, INC. (“Forest River”), hereby removes to this Court the state court action described below. Removal is made pursuant to 28 U.S.C. § 1441.

1. Forest River is a defendant in a civil action pending in the Superior Court of California, County of San Bernardino, entitled *Kathryn Johnson v. Forest River, Inc., et al.*, Case Number CIVSB2304014 (the “State Court Action”). The State Court Complaint alleges warranty claims stemming from Plaintiff’s use and ownership of a recreational vehicle. A copy of the Complaint is attached hereto as Exhibit A.

2. The State Court Action was commenced on February 10, 2023. The first date upon which Forest River was served with notice of the State Court Action was

1 April 24, 2023. A copy of the Summons is attached hereto as Exhibit B. As such, this  
2 Notice of Removal is timely under 28 U.S.C. § 1446(b) because it is filed within thirty  
3 (30) days of receipt of the initial pleading setting forth the claim for relief.

4 3. Removal of this action is proper under 28 U.S.C. § 1332, and is one which  
5 may be removed to this Court by Defendant Forest River pursuant to the provisions of  
6 28 U.S.C. § 1441(b) in that it is a civil action between citizens of different states and the  
7 matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.  
8 As to diversity of citizenship, the complaint states that Plaintiff “is an individual who  
9 resides in the City of Yucaipa, County of San Bernardino, State of California.” (*See*,  
10 Exhibit A, Complaint Page 2, Lines 7-8). Forest River is informed and believes that  
11 Plaintiff is a resident of Yucaipa (located in the County of San Bernardino) and a citizen  
12 of California. For diversity purposes, a natural person is a “citizen” of the state which  
13 he or she is domiciled. *Kantor v. Wellesley Galleries, LTD.* (9<sup>th</sup> Cir. 1983) 704 F.2d  
14 1088, 1090. “It is assumed . . . that a person’s current residence is also his domicile.”  
15 *Charles Alan Wright & Arthur Miller, Federal Practice & Procedure* § 3612 (3d. Ed.  
16 2013). Defendant Forest River is an Indiana corporation with its principal place of  
17 business in Elkhart, Indiana. A corporation is a citizen of both its state of incorporation  
18 and principal place of business. 28 U.S.C. § 1332(c). As to the amount in  
19 controversy, the total cash price of the recreational vehicle purchased by Plaintiff is  
20 \$132,538.78. Attached as Exhibit C is a true and correct copy of the Retail Installment Sale  
21 Contract by which Plaintiff purchased the recreational vehicle at issue in the Complaint.  
22 Plaintiff’s purchase of the recreational vehicle includes an all cash payment in the amount of  
23 \$132,538.78 at the time of purchase. (*See*, Exhibit C). In the Complaint, Plaintiff seeks  
24 rescission of the purchase contract (*See*, Exhibit A, Complaint Page 5, Lines 27-28; and  
25 Page 7, Lines 3-4) and further revokes acceptance of the recreational vehicle (*See*  
26 Exhibit A, Complaint, Page 3, Line 10; Page 5, Line 24; and Page 6, Line 28). Further,  
27 Plaintiff’s prayer for relief includes rescission of the sales contract, restitution of all  
28 monies expended, attorney’s fees, and a civil penalty. “In actions for rescission, Courts

1 have used the value of the object of the contract as the value of the rescission claim for  
2 the amount in controversy determination.” *Diaz v. Carmax Auto Superstores California,*  
3 *LLC*, 2015 WL 3756369, at \*3 (E.D. Cal. 2015). In addition to damages, Plaintiff is  
4 also seeking civil penalties pursuant to the first and third causes of action. Song-  
5 Beverly civil penalties are akin to punitive damages. It is well established that punitive  
6 damages are part of the amount in controversy in a civil action. *Gibson v. Chrysler*  
7 *Corp.* 261 F.3d 927, 945 (9<sup>th</sup> Cir. 2001). Therefore, Forest River is informed and  
8 believes that the amount in controversy exceeds \$75,000.00, exclusive of interest and  
9 costs which Plaintiff may seek.


10 4. Complete diversity exists as between Plaintiff and Forest River.

11 5. In compliance with 28 U.S.C. § 1446(a), a copy of the Notice of Filing of  
12 Notice of Removal of Action that will be filed with the Superior Court of the State of  
13 California, County of San Bernardino pursuant to 28 U.S.C. § 1446(d), is attached  
14 hereto as Exhibit D.

15 6. Defendant Forest River’s written notice of this filing to Plaintiff, as  
16 required under the same statute, is attached hereto as Exhibit E.

17 BRAVO LAW GROUP, A.P.C.

18  
19 Dated: 5/23/23

20 By:   
21 Dolores E. Gonzales, Esq.  
22 Attorney for Defendant  
23 FOREST RIVER, INC.  
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<b>UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA</b>		FOR COURT USE ONLY
TITLE OF CASE (Abbreviated) <b><i>Kathryn Johnson v. Forest River, Inc., et al.</i></b>		
ATTORNEY(S) NAME AND ADDRESS Dolores E. Gonzales, Esq. (SBN: 171306) (858) 300-1900 <b>BRAVO LAW GROUP, A.P.C.</b> FAX: (858) 300-1910 4025 Camino Del Rio South, Suite 300 San Diego, California 92108 <a href="mailto:dolores.gonzales@bravolawgroup.com">dolores.gonzales@bravolawgroup.com</a>		
ATTORNEY(S) FOR: Defendant FOREST RIVER, INC.	HEARING / DATE-TIME-DEPT	CASE NUMBER TBD

**DECLARATION OF SERVICE**

I, the undersigned, declare:

I am and was at the time of service of the papers herein referred to, over the age of 18 years, and not a party to this action. My business address is 4025 Camino Del Rio South, Suite 300, San Diego, California 92108.

I served the following document(s):

**NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441**

on the parties in this action addressed as follows:

Andrew M. Weiss, Esq.  
LAW OFFICE OF ANDREW M. WEISS  
8117 W. Manchester Avenue, Suite 490  
Playa Del Rey, CA 90293  
[amwesq@gmail.com](mailto:amwesq@gmail.com)

Attorney for PLAINTIFF

**BY ELECTRONIC FILING:** By attaching a true copy of the above-entitled document(s) to the E-Filing System of the United States District Court, Central District of California on May 23, 2023. The file transmission was reported as complete and a copy of the Filing Receipt page will be maintained with the original document(s) in our office.

☒ **BY MAIL:** I placed a true copy in a sealed envelope addressed as indicated above, on May 23, 2023. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct and that this declaration was executed on May 23, 2023, at Santee, California.

  
JEANNE M. RODEN